



December 30, 2005

TO: Telephone and Telegraph Filers
FROM: Marilyn H. Browne, Chief
Bureau of Local Assessment
COPY: Boards of Assessors
TOPIC: **Telephone and Telegraph Return for FY2007**

Filing Deadline

On or before March 1, 2006, telephone and telegraph companies doing business in the Commonwealth are required to make a return (Form 5941) to the Commissioner of Revenue listing taxable machinery, poles, wires, underground conduits, wires and pipes located in each municipality as of January 1, 2006, pursuant to M.G.L. c. 59, §41.

Based on the Supreme Judicial Court in the case of RCN-BecoCom, LLC v. Commissioner of Revenue, SJC-09197, all companies providing bundled services including telephone and cable television (CATV) and/or telephone and high speed Internet in Massachusetts, or companies that have other non-telephone business in Massachusetts, must provide additional information on Form 5941 Appendix. That information will be used to determine whether the company is substantially a telephone and telegraph company subject to central valuation under the RCN decision.

Any company that is submitting a Form 5941 Appendix, is filing a return for the first time, has filed in the past and has not been centrally valued, or is not sure whether it must file a central return may also need to file timely local returns of property under M.G.L. c. 59, §29, or seek authority to file such return late, in order to protect its rights in the event the Commissioner determines that the company is not substantially a telephone/telegraph company and therefore not subject to central valuation. Any company that has taxable non-telephone property subject to local valuation must file a local return with the local boards of assessors on such property as well as Form 5941 for centrally valued telephone property.

Change in Return for 2007 - Spreadsheet

All personalty that is new for calendar year 2005 and all personal property that is new to a community, whether it is new, used or transferred from another community, must be noted by placing a checkmark in the New Asset column on the spreadsheet "List of Telephone and Telegraph Personal Property".

FY07 Central Valuation Reporting Forms

State Tax Form 5941 and State Tax Form 5941 Appendix, are available on the Internet at www.dls.state.ma.us/bla. Personalty will be valued by the cost approach using property identification codes that mirror those of the Federal Communications Commission (FCC) and generally accepted cost indices. All returns must be complete, submitted in the prescribed format and signed by the treasurer. Current year returns will be compared with previous years' returns and you must be able to account for discrepancies.

The spreadsheet portion of the return uses drop down menus to assist you in the selection process. After entering the property cost data the spreadsheet will generate proposed values for the upcoming year. These proposed values are subject to review, verification and modification by the Bureau of Local Assessment.

When using the spreadsheet portion of the return you should be aware of the following:

1. Data entry or upload capacity is 10,000 lines. If more lines are needed please use an additional spreadsheet.
2. Installation years must be entered or uploaded as numbers. Text values will appear in red and proposed values will not be calculated.
3. Personal property descriptions must be selected from the list provided. Property identification code categories mirror those of the FCC and can be selected alphabetically or numerically.
4. Community names that are incorrect will appear in red. You must select the correct community name from the list provided in the spreadsheet.
5. Installation years earlier than 1960 will be highlighted in green to assist in discovery of any error in data entry or upload.
6. The nature of use column has three choices and only one must be selected.

State Tax Form 5941 must be submitted electronically in the Excel format requested to bladata@dor.state.ma.us along with a printed and signed copy. The treasurer of the company, by statute, must sign the return. The owner of the property and not the lessee, user or holder, regardless of whether there is an indefeasible right of use (IRU), is responsible for reporting the personal property to the Commissioner. Returns must be filed timely. Failure to provide all required information will cause the return to be treated as an incomplete filing.

The following page contains a chart that identifies the taxable status of telephone personal property subject to central valuation based on the entity status of the company. If you have any questions contact Walter Sandoval Dusza at 617-626-4087 or John Gillet at 617-626-3605.

Central Valuation Reporting Requirements Based on Company Entity Status

Property listed includes only machinery, poles, wires, underground conduits, wires and pipes used for providing telephone or telegraph service, which includes such property used for telephone and cable TV or telephone and Internet, but not property used solely for Cable TV or Internet.

Legal Form of Owner of Property	Taxable Telephone Personal Property Reported to the Commissioner (Form 5941)
Corporation	<ul style="list-style-type: none">• Poles and wires over private property• Underground conduits, wires and pipes in public or private property• Electric generating machinery
Limited Liability Company (LLC) filing a federal return as a corporation LLC or other entity electing to be treated federally as a disregarded entity and whose sole member is a S corporation	<ul style="list-style-type: none">• All poles, wires, underground conduits, wires and pipes situated in Massachusetts• Machinery used in the conduct of the telephone and telegraph business, which includes<ul style="list-style-type: none">○ electric generators○ switching equipment and○ routers,• but <u>does not include</u> machinery that is<ul style="list-style-type: none">○ stock in trade of the company (machinery sold or leased in the usual course of business) or○ directly used in purchasing, selling, accounting or administrative functions
Other legal entity, including: <ul style="list-style-type: none">• Partnership• Association• Trust LLC filing a federal return as a partnership or a disregarded entity (except a single member LLC or other entity whose single member is a S corporation)	<ul style="list-style-type: none">• All poles, wires, underground conduits, wires and pipes situated in Massachusetts• All machinery, including electric generators, switching equipment and routers, used for telephone and telegraph service purposes